



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: DA/00670/2018

THE IMMIGRATION ACTS

Heard at: Manchester CJC
On: 9 September 2019

Decisions & Reasons Promulgated
On: 16 September 2019

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

MZ
ANONYMITY DIRECTION MADE

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Ms Dirie, Counsel

For the respondent: Mr Tan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, a citizen of Poland, has appealed against a decision of the First-tier Tribunal dated 14 June 2019 in which it dismissed the appellant's appeal on EEA grounds.
2. I make an anonymity direction because this decision refers to sensitive medical evidence relevant to the appellant.

3. Mr Tan relied upon a written notice dated 4 September 2019, in which the SSHD conceded that there was an error of law in the decision such that it should be set aside and remitted to the First-tier Tribunal. This is because the First-tier Tribunal failed to take relevant considerations into account, including medical evidence concerning the appellant's mental health available to it, when making findings of fact. I am satisfied that Mr Tan was entirely correct to concede an error of law was made such that the decision must be set aside.
4. Both representatives agreed that the decision should be remade by the First-tier Tribunal. I have had regard to para 7.2 of the relevant *Senior President's Practice Statement* and the nature and extent of the factual findings required in remaking the decision, and I have decided that this is an appropriate case to remit to the First-tier Tribunal. No findings of fact are preserved.
5. Upon remittal, the First-tier Tribunal's attention is drawn to the addendum psychiatric report from Dr Galappathie dated 19 July 2019 and in particular the prognosis at [63]. It would be helpful, given the appellant's mental health concerns and the related issues likely to arise in this appeal, for there to be a case management review hearing at an early stage.

Decision

6. The decision of the First-tier Tribunal involved the making of a material error of law. Its decision cannot stand and is set aside.
7. The appeal shall be remade by First-tier Tribunal de novo.

Signed: Ms Melanie Plimmer
Judge of the Upper Tribunal

Dated: 9 September 2019